IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 9051 OF 2005

Ashok L.Sawant .... Petitioner

versus

Syndicate Bank and another..... Respondent.

Ms. Shobhana Gopal for the petitioner.
Mr. P.K.Rele Sr. Adv. with Mr. Rajesh Rele i/b piyush Shah for the respondtns 1 and 2.

CORAM; A.P. DESHPANDE, J.
DATED; 28TH JUNE, 2007

P.C.;

1. The petitioner was working as an attender at Homji Street Branch of the respondent bank between 17-2-1992 to 21-8-1993. The petitioner was charged for serious act of misconduct, in removing Foreign Inward Remittance Certificate and for its sale for monetary consideration. The fraud was detected when the illegally sold certificate came to light, when the certificates were tendered by M/s.Pomona Exports through Byculla branch for endorsement to enable the party to clear the pending export bills. The partner of M/s.Pomona Exports, on enquiry had informed the bank that its partner Mr. Abdul came in possession of the above referred certificate from the present petitioner and the petitioner was paid Rs.1000/- for each blank FIRC. The petitioner had made a statement

to the bank on 19-12-1993 categorically admitting therein that whilr working in FIRC department he had removed the blank FIRC forms, 48 in number, on different occasions and 46 out of those 48 forms were given by the petitioner to one Mr. Dinkar, who was an employee of M/s.Pomona Exports. The petitioner participated in the departmental enquiry, but did not lead any evidence. On the basis of evidence on record, the enquiry officer held that the charges are proved and recommended punishment of dismissal. The Disciplinary Authority acting on the recommendation, proceeded to dismiss the petitioner from service. The charges were grave acts of serious misconduct in abanking industry wherein devotion, diligence, integrity and honesty needs to be preserved by every bank employee. Aggrieved by the dismissal, the respondent moved the Dy. Commissioner of labour and a reference came to be made before the Central Government Industrial Tribunal. The Tribunal by passing an award held that the enquiry held is just and fair and the punishment imposed is not at all disproportionate and that the action of the management is legal and justified. It is this award passed by the Industrial court which is challenged by filing the present writ petition.

3. The learned counsel for the petitioner has

submitted that the material witness Mr. Kamble was not examined and that on the basis of the evidence on record it cannot be concluded that the petitioner is guilty of the charge of misconduct.

4. Perused the award passed by the Central Government Industrial Tribunal. The same does not call for any interference. It may not out of place to mention that the award part-II was passed as back as on 12-3-2003 and the present writ petition came to be filed belatedly on 7-12-2005 i.e after almost a period of three years. The learned counsel for the petitioner has placed reliance on a judgment of this court reported in 1995 Labour and Industrial cases 1496. The said judgment lays down that hearsay evidence cannot be treated as conclusive evidence in the absence of any other substantive evidence. The said judgment has no application to the facts of the present case, in as much as in the present case the charges are proved on the basis of admissible evidence. Hence writ petition is summarily dismissed.

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